

ORIGINAL

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

JAN 16 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

BellSouth Telecommunications, Inc.
Petition for Pricing Flexibility
for Special Access and Dedicated Transport

)
)
)
)
)
)

CCB/CPD File No. 00-20

WORLDCOM APPLICATION FOR REVIEW

Pursuant to Section 1.115 of the Commission's rules, WorldCom, Inc.
(WorldCom) hereby seeks Commission review of the BellSouth Special Access Order,¹
adopted by the Common Carrier Bureau (Bureau) on December 15, 2000.

I. BellSouth Failed to Show That it Satisfied the Applicable Triggers

Pursuant to the Pricing Flexibility Order, incumbent LECs bear the burden of
proving that they have satisfied the applicable trigger for the pricing flexibility they
seek.² The Bureau erred by granting BellSouth's petition in the absence of convincing

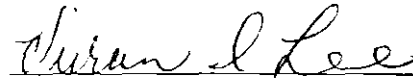
¹BellSouth Petition for Pricing Flexibility for Special Access and Dedicated
Transport Services, Memorandum Opinion and Order, CCB/CPD No. 00-20, released
December 15, 2000 (BellSouth Special Access Order).

²In the Matter of Access Charge Reform, Fifth Report and Order and Further
Notice of Proposed Rulemaking, CC Docket No. 96-262, released August 27, 1999 at ¶
172 (Pricing Flexibility Order).

CERTIFICATE OF SERVICE

I, Vivian I. Lee, do hereby certify that copies of the foregoing Application for Review were sent via first class mail, postage paid, to the following on this 16th Day of January, 2001.

International Transcription Services**
1231 20th Street, N.W.,
Washington, DC 20036


Vivian I. Lee

M. Robert Sutherland
Richard M. Sbaratta
Helen A. Shockey
BellSouth Telecommunications, Inc.
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, GA 30306-3610

Jane E. Jackson**
Chief, Competitive Pricing Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Tamara Preiss**
Deputy Chief, Competitive Pricing
Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Rich Lerner**
Deputy Chief, Competitive Pricing
Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**HAND DELIVERED

evidence that BellSouth had satisfied the applicable triggers and by effectively shifting the burden of proof to the parties opposing BellSouth's petition.

In essence, BellSouth's petition consisted of little more than the bare assertion that it satisfied the specified triggers under the "revenue" versions of the pricing flexibility tests. For each MSA, the only relevant data presented by BellSouth was a revenue figure that happened to be above the specified thresholds. BellSouth did not provide, even under confidential cover or in summary form, any of the workpapers that supported the claimed revenue figure. In fact, BellSouth did not even provide wire center-by-wire center data showing the distribution of the MSA's revenues among central offices.

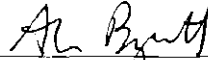
The Bureau's grant of BellSouth's petition based on such a meager showing is contrary to the Pricing Flexibility Order's instruction that the burden of proof is to be placed on the ILEC and the Pricing Flexibility Order's expectation that pricing flexibility showings would be "readily verifiable."³ Absent support data, neither the Bureau nor interested parties had the ability to verify that BellSouth had accurately categorized its special access and transport revenue into service types and then accurately allocated the revenue among wire centers.

Even worse, the Bureau effectively placed the burden of proof on commenters, suggesting that it was these parties' responsibility to present detailed revenue data. In particular, the Bureau appears to have determined that BellSouth's minimal showing was sufficient as long as commenters provided no "data from their own purchasing records

³Pricing Flexibility Order at ¶ 84.

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on January 16, 2001.



Alan Buzacott
Senior Manager, Regulatory Affairs
1801 Pennsylvania Ave. NW
Washington, D.C. 20006
(202) 887-3204

that would call BellSouth's data into question."⁴ But the Pricing Flexibility Order clearly did not contemplate that commenters would have to recreate the revenue categorization and allocation process in dozens of MSAs using their own billing records -- all within the fifteen day comment period. Moreover, even if were feasible for a commenter to categorize and allocate its own billing data, the result of this process would be of extremely limited value to the Commission. Because every IXC's POPs and customers are located in different places, it is doubtful that the Commission would view the revenue distribution for one IXC as representative of BellSouth's customer base as a whole.

The Bureau's failure to require BellSouth to support its revenue claims is inexplicable, given that the scope of the relief sought by BellSouth was so much broader than the Commission expected. When the Commission adopted the Pricing Flexibility Order, the Chief of the Common Carrier Bureau indicated that competition sufficient to meet the Phase II triggers existed in only "a few" of "the largest metropolitan areas."⁵ More recently, the Commission stated that it anticipated that the pricing flexibility triggers "are most likely to be satisfied initially in large urban areas, where competition would be expected to develop first."⁶ However, far from seeking relief only in "a few"

⁴BellSouth Special Access Order at ¶ 21.

⁵"FCC Approves Framework to Give ILECs Pricing Flexibility for Access Services," Telecommunications Reports, August 9, 1999.

⁶Brief for Federal Communications Commission, *MCI WorldCom v. Federal Communications Commission*, Case Nos. 99-1395/1404/1472 (D.C. Cir.), July 20, 2000, at 40

central offices. For this reason alone, the Commission should withdraw the pricing flexibility authorized by the BellSouth Special Access Order.

III. Conclusion

For the reasons stated herein, the Commission should withdraw the pricing flexibility authorized by the Bureau in the BellSouth Special Access Order.

Respectfully submitted,
WORLDCOM, INC.



Alan Buzacott
1801 Pennsylvania Ave , NW
Washington, DC 20006
(202) 887-3204

January 16, 2001

of “the largest metropolitan areas,” BellSouth was seeking Phase II relief in 38 MSAs, including some of the smallest MSAs in the nation, such as Panama City, Florida (the 283rd largest MSA), Monroe, Louisiana (the 219th largest MSA), and Lake Charles, Louisiana (the 197th largest MSA).

Close scrutiny of BellSouth’s revenue allocation methodology is also warranted by the fact that the scope of relief sought by BellSouth is far broader than that sought by the other price cap LECs that have filed pricing flexibility petitions. In fact, the number of MSAs in which BellSouth has sought Phase II pricing flexibility for end user channel terminations – 26 – far exceeds the total for Verizon, SWBT, Pacific Bell, and Ameritech (14 MSAs in total).

II. The Bureau Does Not Have the Authority to Grant Pricing Flexibility for Packet-Switched Services

In a Public Notice issued on December 28, 2000, the Bureau provided a list of the “qualifying services” that it suggests were granted pricing flexibility by the BellSouth Special Access Order.⁷ Included on this list are a variety of BellSouth packet-switched data services, including frame relay service, “connectionless data service” and asynchronous transfer mode (ATM) service.

The Commission should clarify that the December 28, 2000 Public Notice is in error to the extent that it suggests that the Order granted BellSouth contract pricing

⁷Public Notice, “Common Carrier Bureau Issues List of BellSouth Services and MSAs Approved for Pricing Flexibility in December 15, 2000 Pricing Flexibility Order,” DA 00-2910.

authority and other forms of pricing flexibility for frame relay and other packet-switched services. The Pricing Flexibility Order does not delegate to the Bureau the authority to grant contract pricing authority and other forms of pricing flexibility for packet-switched access services. Pursuant to Sections 69.709(a) and 69.711(a) of the Commission's rules, the Bureau may only grant pricing flexibility for the direct-trunked transport and special access services defined in Sections 69.110, 69.111(a)(2)(iii), 69.112, 69.114, and 69.703(a)(2) of the Commission's rules. Nowhere in the Pricing Flexibility Order does the Commission analyze or discuss the appropriate trigger for contract pricing authority for frame relay and other packet-switched access services. Contrary to the suggestion in the December 28, 2000 Public Notice, these services are excluded from price cap regulation, and are therefore not included in the trunking basket.⁸

Furthermore, if BellSouth included revenues from frame relay and other packet-switched services in calculating the revenues associated with offices with collocations, this almost certainly distorted BellSouth's pricing flexibility showings in all of the MSAs that were the subject of its petition. It is unclear how BellSouth would have allocated the revenues associated with packet-switched services to the entrance facility/interoffice and end user channel termination categories, and there is no reason to believe that the distribution of packet-switched service revenue among central offices would be the same as the distribution of transport and special access revenue among

⁸See, e.g., U S West Petition for Waiver of the Tariff Review Plan Rules, Memorandum Opinion and Order, 12 FCC Rcd 8343 (1997).